

SENATE BILL NO. 57

INTRODUCED BY KEENAN

BY REQUEST OF THE LEGISLATIVE FINANCE COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "MENTAL DISEASE OR DEFECT" FOR PURPOSES OF CRIMINAL PROCEEDINGS; AND AMENDING SECTION 46-14-101, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 46-14-101, MCA, is amended to read:

"46-14-101. Mental disease or defect -- purpose -- definition. (1) The purpose of this section is to provide a legal standard of mental disease or defect under which the information gained from examination of the defendant, pursuant to part 2 of this chapter, regarding a defendant's mental condition is applied. The court shall apply this standard:

(a) in any determination regarding:

(i) a defendant's fitness to proceed and stand trial;

(ii) whether the defendant had, at the time that the offense was committed, a particular state of mind that is an essential element of the offense; and

(b) at sentencing when a defendant has been convicted on a verdict of guilty or a plea of guilty or nolo contendere and claims that at the time of commission of the offense for which the defendant was convicted, the defendant was unable to appreciate the criminality of the defendant's behavior or to conform the defendant's behavior to the requirements of the law.

(2) (a) As used in this chapter, "mental disease or defect" means ~~an affliction with a mental condition that is manifested by a mental disorder, as defined in 53-21-102, or a disturbance in behavior, feeling, thinking, or judgment to such an extent that the person afflicted requires care, treatment, and rehabilitation~~ A SUBSTANTIAL DISORDER OF THOUGHT OR MOOD THAT SIGNIFICANTLY IMPAIRS A PERSON'S JUDGMENT, BEHAVIOR, OR CAPACITY TO RECOGNIZE REALITY TO SUCH AN EXTENT THAT THE PERSON AN ORGANIC, MENTAL, OR EMOTIONAL IMPAIRMENT DISORDER THAT IS MANIFESTED BY A DISORDER OR SUBSTANTIAL DISTURBANCE IN BEHAVIOR, FEELING, THINKING, OR JUDGMENT TO SUCH AN EXTENT THAT THE PERSON AFFLICTED REQUIRES CARE, TREATMENT, AND REHABILITATION.

(b) ~~As used in this chapter, the~~ The term "mental disease or defect" does not include:



1            (i) an abnormality manifested only by repeated criminal or other antisocial behavior;

2            [(ii) a developmental disability, as defined in 53-20-102; or]

3            (iii) DRUG OR ALCOHOL INTOXICATION; OR

4            (iii)(iv) DRUG OR ALCOHOL addiction to drugs or alcohol or drug or alcohol intoxication."

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6            NEW SECTION. SECTION 2. COORDINATION INSTRUCTION. IF SENATE BILL NO. 35 IS NOT PASSED AND

7 APPROVED, THE BRACKETED LANGUAGE IN [SECTION 1 OF THIS ACT] IS VOID.

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